

ROBERT J. CARTER Quarters R, 311 Downes Dr. Great Lakes, IL 60088

Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-B204
Washington, D.C. 20554

RECEIVED

20 May 1999

MAY 24 1999

FCC Docket No. 96-45

DOCKET FILE COPY ORIGINAL

Reference: Opposition, "E-Rate" portion of the Universal Service Tax, (CC Docket No 96-45).

Ladies and Gentlemen:

I strongly oppose the E-Rate Universal Telephone Tax, sometimes referred to as the "Gore Tax". If Vice President Gore or any other government executive believes in a program to supply high speed Internet access and equipment to schools and libraries, then put that program in the US budget for Congressional consideration. My phone bill is not and should not become a source of finance for every "pet project" a government official might consider stylish.

The universal service section of the Telecommunications Act of 1996 was primarily intended to aid rural America. Although the primary purpose of Section 254 is to provide support for high-cost, rural areas, "the potential pot of revenue that the FCC can collect for universal service from fees on interstate services is limited". Congress provides that limit and I believe the FCC should restrict itself to the minimum support from taxpayers required to do it's job.

The computer industry, which will provide much of the "inside wiring," has lobbied intensively for the E-Rate program. They know a great deal when they see it: minimally constrained by budgetary considerations, schools and libraries can be expected to purchase the best and most expensive networking equipment. Some manufacturers have brazenly suggested to the FCC that internal networks for schools should run at 100 Mbits/sec. This capacity is not just for students to exchange e-mail with other students in far away lands or for quickly surfing the Web to research term papers. Rather, this is sufficient capacity for students to send several dozen simultaneous television-quality video programs to one another around the school. Is this capability really necessary for a well-rounded education? Section 254 speaks of discounts for "services." It is difficult to rationalize inclusion of plant and equipment for discounts under this section.

Moreover, much of "inside wiring" turns out not to be copper wire or coaxial cable; instead, "inside wiring" is predominantly computers to support sophisticated ethernet. For example, the E-Rate would allow universal service "taxes" to support installation and maintenance of high-speed computer networks—including "routers, hubs, network file servers, and wireless LANS"—inside schools and libraries. Such internal networks would rival those of the largest corporations and universities; most small businesses cannot afford the luxury of installing and maintaining expensive equipment like this. This program is to be funded as a "tax" and not a "fee".

No. of Copies rec'd 013
List A B C D E

Page 1 of 2

Taxes can be distinguished from administrative fees by determining the recipient of the ultimate benefit: a tax is characterized by the fact that "it confers no special benefit on the payee," "is intended to raise general revenue," or is "imposed for some public purpose." In contrast, a "fee" is a "payment for a voluntary act, such as obtaining a permit." Here, all these factors point toward the category of a tax: the fund, which creates Internet access for schools and libraries, confers no particular advantages upon telecommunications carriers in exchange for their contributions, such as a license or permit; the funds have not, as far as I can tell, been segregated from other government funds; the purpose of the fund is a broad, social one, purportedly to improve education for all Americans; and the payment requirement is not triggered by a voluntary act on the part of telecommunications carriers, such as the filing of an application, but is a flat mandate.

The FCC's interpretation of universal service does not follow the letter of the law. Based on recent correspondence from Congress, it is clear that the FCC's interpretation of universal service does not follow the spirit of the law either. In particular, the Commission has failed to complete work on the highest Congressional priority, rural high-cost service, while creating massive new unintended grant programs for schools and libraries.

Despite good intentions and efforts, some mistakes have been made in the implementation of Section 254 over past years. The best outcome would be to learn from those mistakes; the worst outcome would be to ignore them. The FCC has no business taking money from me without my permission for anything other than basic phone service. I oppose the "E-Rate", "Gore Tax".

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert J. Carter", followed by a long horizontal line extending to the right.

Robert J. Carter